



[BILLING CODE: 6750-01-S]

FEDERAL TRADE COMMISSION

16 CFR Part 301

REGULATIONS UNDER THE FUR PRODUCTS LABELING ACT

AGENCY: Federal Trade Commission.

ACTION: Announcement of public hearing.

SUMMARY: The Federal Trade Commission (“FTC” or “Commission”) will hold a public hearing on December 6, 2011, as part of the congressionally mandated review of its Fur Products Name Guide. The hearing will allow interested parties to present views on whether the Commission should amend the Fur Products Name Guide.

DATES: The hearing will be held on Tuesday, December 6, 2011, from 9:00 A.M. to 1:00 P.M. at the FTC’s Satellite Building Conference Center, located at 601 New Jersey Avenue, N.W., Washington, D.C. 20001.

REGISTRATION INFORMATION: The hearing is open to the public, and there is no fee for attendance. If resources are available for broadcasting, this hearing will be available via a webcast (check the FTC website, <http://www.ftc.gov>, for a webcast announcement). For admittance to the Conference Center, all attendees will be required to show a valid photo identification, such as a driver’s license. The FTC will accept pre-registration for this hearing. Pre-registration is not necessary to attend, but is encouraged so that we may better plan this event. To pre-register, please email your name and affiliation to mwilshire@ftc.gov. When you pre-register, we will collect your name, affiliation, and your email address. This information

will be used to estimate how many people will attend. We may use your email address to contact you with information about the hearing.

Under the Freedom of Information Act or other laws, we may be required to disclose to outside organizations the information you provide. For additional information, including routine uses of your information permitted by the Privacy Act, *see* the Commission's Privacy Policy at www.ftc.gov/ftc/privacy.htm. The FTC Act and other laws the Commission administers permit the collection of this contact information to consider and use for the above purposes.

FOR FURTHER INFORMATION CONTACT: Matthew Wilshire, (202) 326-2976, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION

I. Background

The FTC will hold a public hearing on December 6, 2011, regarding whether to amend its Fur Products Name Guide ("Name Guide"), 16 CFR 301.0. This hearing is part of a review of the Name Guide, which is required by the Truth in Fur Labeling Act ("TFLA").¹ On March 14, 2011, the Commission published an Advance Notice of Proposed Rulemaking ("ANPR") initiating the review,² seeking comment on the Name Guide as well as all of the Commission's regulations ("Fur Rules") under the Fur Products Labeling Act ("Fur Act").³

¹Pub. L. No. 111-313.

²*Federal Trade Commission: Advance notice of proposed rulemaking: request for comment*, 76 FR 13550 (Mar. 14, 2011).

³15 U.S.C. 69-69j.

To implement any change to the Name Guide, the Fur Act requires the Commission to hold a public hearing.⁴ Although the Commission has not determined whether to amend the Name Guide, it will hold a public hearing to consider the significant issues raised by the comments it received in response to the ANPR. Accordingly, the Commission issues this Federal Register Notice to announce the upcoming hearing and propose issues that attending parties should address.

This announcement first provides background on the Fur Act and Rules, the Name Guide, and the ANPR and the comments received in response. It then suggests issues for discussion at the hearing.

A. Fur Act and Rules

The Fur Act prohibits misbranding and false advertising of fur products, and requires labeling of most fur products.⁵ Pursuant to the Act, the Commission promulgated the Fur Rules to establish disclosure requirements that assist consumers in making informed purchasing decisions.⁶ Specifically, the Fur Act and Rules require fur manufacturers, dealers, and retailers to place labels on products made entirely or partly of fur disclosing: 1) the animal's name as listed in the Name Guide; 2) the presence in the fur product of any used, bleached, dyed, or otherwise artificially colored fur; 3) the presence in the fur product of any paws, tails, bellies, or waste fur; 4) the name or Registered Identification Number of the manufacturer or other party

⁴15 U.S.C. 69e(b).

⁵15 U.S.C. 69 et seq.

⁶16 CFR Part 301.

responsible for the garment; and 5) the garment's country of origin.⁷ In addition, manufacturers must include an item number or mark on the label for identification purposes.⁸

B. The Name Guide

The Fur Act requires the Commission to maintain “a register setting forth the names of hair, fleece, and fur-bearing animals.”⁹ The Act further requires these names to “be the true English names for the animals in question, or in the absence of a true English name for an animal, the name by which such animal can be properly identified in the United States.”¹⁰ The Name Guide provides English names for fur-producing animals, listed by genus-species. For example, the Name Guide requires covered entities to label *vulpes fulva* as fox.¹¹

The Commission first published the Name Guide in 1952. The Name Guide can only be amended under the Fur Act “after holding public hearings.”¹² The Commission has done so twice, most recently in 1967.

C. ANPR and Comments on the Name Guide

On December 18, 2010, the President signed TFLA. The law directed the Commission to begin a review of the Name Guide and provide the opportunity to comment on the Name Guide within 90 days. Accordingly, the Commission initiated a review of the Name Guide by

⁷15 U.S.C. 69b(2); 16 CFR 301.2(a).

⁸16 CFR 301.40.

⁹15 U.S.C. 69e(a).

¹⁰*Id.*

¹¹16 CFR 301.0.

¹²15 U.S.C. 69e(b).

publishing the ANPR on March 14, 2011. The ANPR sought comment on the Name Guide generally and on whether the Commission should alter the Name Guide's fur names in particular. As part of the Commission's comprehensive regulatory review program, the ANPR also sought comment on the Fur Rules.¹³

The Commission received 15 comments in response to the ANPR,¹⁴ seven of which discussed the Name Guide.¹⁵ One of the seven urged the Commission to add "sheepskin" as an allowed name.¹⁶ The other six focused on the Name Guide's name for *nyctereutes procyonoides*.¹⁷ Currently, the Name Guide requires that fur industry members label this species "Asiatic Raccoon." The Humane Society of the United States ("HSUS") objected and asked the Commission to replace it with "Raccoon Dog." HSUS first asserted that the "true English name" of an animal should be the name "most widely accepted by the *scientific community*."¹⁸ To gauge scientific consensus, HSUS suggested that the Commission use the names specified by the

¹³For further discussion of the program, see www.ftc.gov/opa/2011/07/regreview.shtm.

¹⁴The comments are available at <http://www.ftc.gov/os/comments/furlabeling>.

¹⁵The Commission will respond to comments regarding Fur Rules other than the Name Guide at a later date.

¹⁶See Deckers Outdoor Corporation Comment at 8-9.

¹⁷Two of these comments also discussed issues unrelated to *nyctereutes procyonoides*. First, the Fur Information Council of America noted what it described as "factual and typographical errors" in the Name Guide and requested that the Commission remove names of certain prohibited species, such as dog and cat. See Fur Information Council of America Comment at 7-8. Second, the Humane Society of the United States objected to the Name Guide's use of one common name for multiple animals and suggested updating several names that "are no longer the accepted common name, appear to have never been the accepted common name, or even appear to be trade names, and would not properly inform the consumer." Humane Society of the United States Comment at 9.

¹⁸HSUS comment at 7 (emphasis in original).

Integrated Taxonomic Information System (“ITIS”), “a partnership of federal governmental agencies formed to satisfy the need for scientifically credible taxonomic information.”¹⁹ HSUS noted that ITIS lists the common name of *nyctereutes procyonoidos* as “Raccoon Dog,” and presented evidence that the scientific community refers to the species by that name.²⁰ Finally, HSUS asserted that the name “Asiatic Raccoon” may confuse consumers because the animal is also found in Europe.²¹

In contrast, the Fur Information Council of America (“Fur Council”) and the National Retail Federation (“NRF”) supported retaining “Asiatic Raccoon.” The Fur Council asserted that the name “Raccoon Dog” would mislead consumers because *nyctereutes procyonoidos* is no more closely related to domestic dogs than foxes, wolves, or coyotes.²² In addition, the Fur Council stated that “[w]ere the Commission to require the use of the term ‘raccoon dog,’ there would no longer be a market for Asiatic/Finnraccoon fur, and garments with this type of fur would be eliminated.”²³ NRF concurred with the Fur Council’s view that *nyctereutes procyonoidos* is “not a true-dog or dog-like canine,” and suggested retaining “Asiatic Raccoon” or changing it to “Tanuki” or “Magnut.”²⁴

¹⁹*Id.*

²⁰*Id.* at 8-9.

²¹*Id.* at 9.

²²Fur Council Comment at 5.

²³*Id.* at 6.

²⁴NRF Comment at 4.

Finally, the Fur Council and Finnish Fur Sales, supported by the Finnish Ministry for Foreign Affairs and Ministry of Agriculture and Forestry, suggested allowing the name “Finnraccoon” for *nyctereutes procyonoidos* raised in Finland. These commenters noted that calling such furs “Asiatic Raccoon” could mislead consumers because “finraccoons” are not from Asia and are raised under different conditions than those that generally exist in Asia.²⁵

II. Issues for Discussion at the Hearing

The Commission invites attendees to share views on any aspect of the Name Guide at the hearing. The Commission specifically requests views on: 1) the appropriateness of using the ITIS system to determine an animal's true English name; 2) whether using the name “Asiatic Raccoon” to describe *nyctereutes procyonoidos* fur products accurately informs consumers about the source, quality, and characteristics of those products; 3) what, if any, alternative name, including “Tanuki” or “Magnut,” should the Name Guide require for *nyctereutes procyonoidos*; 4) whether the Name Guide should allow “Finnraccoon” for *nyctereutes procyonoidos* raised in Finland; and 5) whether the Commission should modify, add, or delete other names.

By direction of the Commission.

Donald S. Clark,
Secretary.

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²⁵See, e.g., Fur Council Comment at 3-4; Finnish Fur Sales comment at 1-2.